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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/828,806

04/21/2004

Julia Edgerton Simons

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Ira C. Edell
Edell, Shaprio & Finnan, LLC
Suite 400
1901 Research Blvd.
Rockville, MD 20850-3164

EXAMINER

PLUMMER, ELIZABETH A

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

05/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/828,806

Applicant(s)

SIMONS, JULIA EDGERTON

Examiner

Elizabeth A. Plummer

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11 and 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11 and 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's amendments and arguments received 03/15/2007 have entered and considered. Claims 4 and 12 have been canceled. Claims 23 and 24 have been added. An examination of pending claims 1-3, 5-11 and 13-24 is herein presented.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 13-15, 19-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Cross (US Patent 5,598,880).

a. Regarding claim 19, Cross discloses a trim member of a soft fabric top treatment (12) having an elongated border constructed of a supple material, with a aesthetic and decorative front side (column 1, lines 5-15). The opposite backside has a releasable fastener in the form of loops (38) that are matable with complementary releasable fasteners in the form of hooks (28) in order to attach the treatment (12) to the architectural structural panels (18,20).

b. Regarding claim 20, the fabric soft treatment (12) is shown conforming to a corner formed by substantially planar surfaces intersecting at substantially ninety degrees (Fig. 1, 5).

c. Regarding claim 22, Cross discloses a trim member of a soft fabric top treatment (12) having an elongated border constructed of a supple material, with

a aesthetic and decorative front side (column 1, lines 5-15). The opposite backside has a releasable fastener in the form of loops (38) that are matable with complementary releasable fasteners in the form of hooks (58) in order to attach the treatment (12) to the architectural structural panels (18,20) (Fig. 5).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-11,13 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodrogi (US Patent 4,804,572) in view of Hanson et al. (US Patent 4,845,910).

a. Regarding claims 1, Bodrogi discloses a wall trim member (10) for decorating an architectural structure, said trim member comprising an elongated border constructed of a supple material (column 2, lines 14-20), said border having a front side having a decorative appearance (Fig.) and a back side opposite said front side, and a plurality of overlapping layers (column 2, lines 1-6; Fig.), a first of said layers being positioned over a second of said layers to at least partially expose said second layer beneath said first layer when viewed from the front side of the border (Fig.), and a fastener (18) positioned on the back side of said border. Bodrogi does not disclose that the fastener is a releasable fastener, the fastener being one portion of a complementary fastener system.

However, it is notoriously well known in the art that wall trim members can comprise a releasable fastener on the back side of a border. For example, Hanson et al. teaches a wall trim member (10) with a releasable fastener (22) positioned on the back side (12) of the border (Fig. 3,4), the releasable fastener being one portion of a complementary fastener system (column 3, lines 25-36), in order to be able to remove the trim multiple times without loss of adhering qualities (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bodrogi to use a releasable fastener, such as taught by Hanson et al., in order to make a repositionable wall trim.

b. Regarding claim 2, Hanson et al. further discloses the releasable fastener comprising a hook portion of a hook and loop fastener system (column 3, lines 25-36).

c. Regarding claim 3, Hanson et al. further discloses the releasable fastener comprising an elongated strip extending along the border in the direction of elongation (Fig. 3,4).

d. Regarding claim 5, Bodrogi further discloses the supple material comprises cloth (column 2, lines 15-20).

e. Regarding claim 6, the supple material is inherently capable of substantially conforming to a corner formed by substantially planar surfaces intersecting at substantially ninety degrees.

f. Regarding claims 7-10, Bodrogi discloses the claimed invention expect for the specification of bend radius. It would have been a matter of obvious design choice to one of ordinary skill in the art at the same time the invention was made to form the wall trim with a bend radius of either one inch, one-half inch, or one-quarter inch, as Bodrogi is concerned with flexibility (column 3, line 6).

g. Regarding claim 11, the supple material can comprise paper (column 3, line 63).

h. Regarding claim 13, Bodrogi discloses trim kit for decorating an architectural structure, comprising a wall trim member (10), said trim member comprising an elongated border constructed of a supple material (column 2, lines 14-20), said border having a front side having a decorative appearance (Fig.) and a back side opposite said front side, and a plurality of overlapping layers (column 2, lines 1-6; Fig.), a first of said layers being positioned over a second of said layers to at least partially expose said second layer beneath said first layer when viewed from the front side of the border (Fig.), and a fastener (18) positioned on the back side of said border. Bodrogi does not disclose that the fastener is a releasable fastener, the fastener being one portion of a complementary fastener system. However, it is notoriously well known in the art that wall trim members can comprise a releasable fastener on the back side of a border. For example, Hanson et al. teaches a wall trim member (10) with a releasable fastener (22) positioned on the back side (12) of the border (Fig. 3,4), the releasable fastener being one portion of a complementary fastener system (column 3, lines 25-36)

and a complementary releasable fastener (24) mountable to the structure, said complementary releasable fastener being matable with said releasable fastener for attaching said trim member, in order to be able to remove the trim multiple times without loss of adhering qualities (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bodrogi to use a releasable fastener and complementary releasable fastener, such as taught by Hanson et al., in order to make a repositionable wall trim.

i. Regarding claims 23 and 24, the first layer comprises a first material (13) (column 2, lines 1-20), and the second layer (16) comprises a different material from the first material (column 2, lines 56-68).

5. Claims 14-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Bodrogi (US Patent 4,804,572) in view of Hanson et al. (US Patent 4,845,910) as applied to claim 13 above, and further in view of Cross (US Patent 5,598,880).

a. Regarding claim 14, Bodrogi in view of Hanson et al. discloses the releasable fastener comprising an elongated strip extending along the border in its direction of elongation. Bodrogi in view of Hanson et al. does not disclose that the complementary releasable fastener comprises a plurality of discrete fasteners. However, it is well known in the art that discrete fasteners can be used in place of an elongated strip. For example, Cross teaches a trim system with a complementary releasable fastener system wherein the complementary releasable fastener comprises a plurality of discrete fasteners (58) (Fig. 5). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Bodrogi in view of Hanson et al. to use discrete complementary fasteners, such as taught by Cross, in order to use less fastening material.

b. Regarding claim 15, Hanson et al. further discloses that the elongated strip comprises hooks and the discrete fasteners comprise loops (Fig. 4).

c. Regarding claim 16, Hanson et al. further discloses the complementary fasteners comprise a backing of adhesive material in the form of a pressure sensitive coating (26) that is protected by a peel off release strip (27) (column 3, lines 45-55).

d. Regarding claim 17, Bodrogi in view of Hanson et al. and Cross does not additionally disclose the wall fasteners including an internal opening for admitting passage of a mechanical fastener. However, it is well known in the art that a fastener with an integral hole, such as a predrilled hole, can be used. Therefore it would have been obvious to one of ordinary skill at the same time the invention was made to modify Cross to use wall fasteners including an internal opening for admitting passage of a mechanical fastener, in order to make the fastener easier to install.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bodrogi (US Patent 4,804,572) in view of Hanson et al. (US Patent 4,845,910) as applied to claim 13 above, and further in view of McGowen (US Patent 5,918,435). While Bodrogi in view of Hanson et al. discloses a trim (10) that is releasably attached to the wall, Bodrogi in view of Hanson et al. does not disclose two distinct treatments or molding

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strips. However, it is well known in the art that an advantage of a removable decoration are that the design possibilities are limited only by the decorators imagination. For example, McGowen discloses multiple trim borders (Figs. 8,9) that can easily be interchanged without damage or mess. Therefore it would have been obvious to one of ordinary skill at the same time the invention was made to modify Bodrogi in view of Hanson et al. to include multiple trims, such as taught by McGowen, in order to increase the number of decorating possibilities.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cross (US Patent 5,980,880) in view of McGowen (US Patent 5,918,435). While Cross discloses a treatment (12) that is releasably attached to the wall, Cross not disclose two distinct treatments or molding strips. However, it is well known in the art that an advantage of a removable decoration are that the design possibilities are limited only by the decorators imagination. For example, McGowen discloses multiple trim borders (Figs. 8,9) that can easily be interchanged without damage or mess by unmating the releasable fastener of the trim member from the complementary releasable fastener to remove the trim member from the wall and then using the second trim member. Therefore it would have been obvious to one of ordinary skill at the same time the invention was made to modify Cross to include multiple trims, such as taught by McGowen, in order to increase the number of decorating possibilities. Cross teaches that a consumer can mix and match colors, fabrics and styles (column 6, lines 5-15).

Response to Arguments

8. Applicant's arguments filed 03/15/2007 have been fully considered but they are not persuasive. Regarding claims 19-20 and 22, the trim member of Cross is connected to a wall of the header, or architectural structure, by using a fastener of hook and loop material. Furthermore, In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the plurality of layers) are not recited in rejected claim 19.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, in response to applicant's argument that the wall of the header is not analogous to the wall of a building, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

9. Applicant's arguments with respect to claims 1-3, 5-11 and 13-18 have been considered but are moot in view of the new ground(s) of rejection. While applicants arguments concerning claims 1 and 13 were not found persuasive (Seavey has non-coextensive layers (Fig. 2), Seavey does not state the trim is rigid, and claims 1 and 13 do not claim that the combined trim of Cross in view of Seavey must be able to conform to a ninety degree bend), by incorporating limitations from claim 12 into 1 and 13, the

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amendment has caused a new combination of claim features in claims 2-3, 5-11 and 14-18, necessitating the new grounds of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact Information

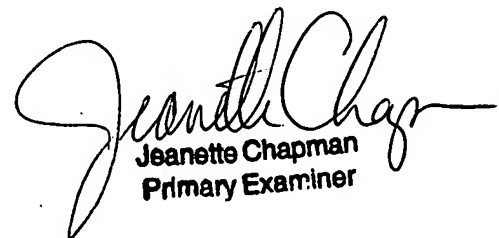
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Plummer whose telephone number is (571) 272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Jeanette Chapman
Primary Examiner